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**TO:**

**Name:** Mail Stop AMENDMENT  
Group Art Unit 3731/Examiner Uyen Ho

**Firm:** U.S. Patent & Trademark Office

**Fax No.:** 571-273-8300

**Subject:** U.S. Patent Application No. 10/098,683

Gary Karlin Michelson

Filed: March 15, 2002

SPINAL IMPLANT CONTAINING BONE

MORPHOGENETIC PROTEIN

Attorney Docket No. 101.0042-05000

Customer No. 22882

Confirmation No.: 7210

**FROM:**

**Name:** Thomas H. Martin, Esq.

**Phone No.:** 330-877-2277

**No. of Pages (including this):** 4

**Date:** September 19, 2007

**Confirmation Copy to Follow:** NO

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**Message:****CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Information Disclosure Statement Under 37 C.F.R. § 1.97(b) and Form PTO/SB/08 are being facsimile transmitted to the U.S. Patent and Trademark Office on September 19, 2007.



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PATENT  
Attorney Docket No. 101.0042-05000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Gary Karlin Michelson  
Serial No.: 10/098,683  
Filed: March 15, 2002  
For: SPINAL IMPLANT CONTAINING  
BONE MORPHOGENETIC  
PROTEIN

Confirmation No.: 7210

Group Art Unit: 3731  
Examiner: Uyen T. Ho

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Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the documents listed on the attached Form PTO/SB/08. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits after the filing of a Request for Continued Examination (RCE) for the above-referenced application.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and Applicant determines that the cited documents do not constitute "prior art" under United States law, Applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

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Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: September 19, 2007

By:   
Thomas H. Martin  
Registration No. 34,383

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